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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-------------------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 09/480,731 | 01/06/2000 | JOSEPH GIORDANO III | 004444.P003 | 4667 |
| 8791 | 7590 | 09/30/2004 | EXAMINER | |
| BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030 | | | CUFF, MICHAEL A | |
| | | ART UNIT | PAPER NUMBER | 3627 |

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/480,731 | GIORDANO ET AL. | |
| | Examiner | Art Unit | |
| | Michael Cuff | 3627 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 10 August 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 22-25,27-32,34-37 and 39-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 22-25,27-32,34-37 and 39-51 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-25, 29-32, 36-37, 39, 42, 43, 46, 48, 49, and 51 rejected under 35 U.S.C. 103(a) as being unpatentable over Kenny in view of Schena et al. and Wallace et al.

Kenny shows all of the limitations of the claims except for specifying the use of a "cookie", the use of different distribution centers for prescription and non-prescription drugs, and saving the shipping address.

Kenny shows an interactive electronic shopping system (serving web page, receiving orders, the system is open to any product, including drugs) and method. List can be provided by the means for generating and displaying a list of the present invention is a list of products previously ordered by the shopper and the date (date of ordering) each listed product was last ordered by the shopper. (providing this list inherently shows storing information based on customer identification) This type of list can also indicate the frequency with which each listed product has been ordered or is to be ordered by the shopper. One implementation of this is to program the display means

Art Unit: 3627

12 so that actual ordering or selecting of products is automatically tracked and a frequency computation made (analyzing frequency), such as either on the basis of the time since last ordering the same product or an average time based on a historical record of the orders for the same product. These lists are generated and displayed by suitable programming means within the display means 12 or as obtained from the storage means 10. (column 6, lines 19-33) The reference is silent to matters of distribution.

Schena et al. teaches the use of a cookie to provide customer information (registration) in order to simplify the use of complex interactive codes. A method of the invention includes using the system to collect and manage code 10 that lacks link information. This linkless code information may be added to the cookie along with any additional user input information. The code 10 is capable of being read by a scanner 100 or a transducer generating and transmitting the link information based upon a stimulus. More complex interactive codes could be routed based on any of the scanned information in combination with user personal profile information (i.e. "a cookie"), user interactive responses from the user input information, the person's location or other demographic information and portal server database 210 information. The cookie comprises a person's identifying information such as name, address, credit card(s) information, and other related information. Cookies may be stored on the scanner 100, the receiver 180, or the portal server 200. In another example, an HMO pharmacy could encode patient information, medication information, and refill information onto a printed label of medication upon its dispensing. The information would be represented

Art Unit: 3627

by code 10. Scanner 100 would read the code 10 and validate the personal information contained in the code 10 against the user personal profile information stored on either the scanner 100, the receiver 180, the portal server 200, or a provider 600. (see bottom of column 6 and column 7)

Based on the teaching of Schena et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny system to incorporate the use of a cookie to provide customer information (registration) in order to simplify the use of complex interactive codes.

Wallace et al. teaches a system and methods for drug dispensing, which includes different distribution centers for prescription and non-prescription drugs in order to more efficiently distribute products, which have different requirements. (See middle column 2 and top column 3.)

Based on the teaching of Wallace et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny system to incorporate many different customized distribution systems for many different products (examples being frozen food, fresh produce, canned goods, and drugs), which includes the different distribution centers of Wallace et al. for prescription and non-prescription drugs in order to more efficiently distribute products, which have different requirements.

The examiner takes Official Notice that it is well known in the art to save the previous shipping address in a customer profile in order to facilitate reordering.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the Kenny customer profile to incorporate the saving of the previous shipping address in a customer profile in order to facilitate reordering.

2. Claims 27, 34, and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination system of Kenny, Schena et al., and Wallace et al. in further view of www.drugstore.com.

The combination system of Kenny, Schena et al., and Wallace, as applied above, shows all of the limitations of the claims except for specifying details, such as prescriptions and insurance, of online drug purchasing.

www.drugstore.com teaches the incorporation of a Pharmacy department of an online store, which includes means for handling prescriptions and insurance, in order to help the customer legally obtain the drugs.

Based on the discussion above, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the combination system of Kenny, Schena et al., and Wallace to incorporate the pharmacy department of www.drugstore.com, including means for handling prescriptions and insurance, in order to help the customer legally obtain the drugs.

3. Claims 28, 35, and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination system of Kenny, Schena et al., and Wallace in further view of Anderson.

The combination system of Kenny, Schena et al., and Wallace, as applied above, shows all of the limitations of the claims except for specifying suggesting related products.

Anderson teaches a personal intercommunication purchase and fulfillment system. Column 2, lines 6-15, teaches, "The present system can perform complementary searches to suggest related products to the consumer based on a buyer's previous purchases. Complementary searches afford buyers greater flexibility and depth of knowledge when purchasing related products. When combined with the economies of scale in large networks, buyers have access to remote selections not normally available. This increases the number of purchases made by customers, as well as incremental revenue gains."

Based on the teaching of Anderson, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the combination system of Kenny, Schena et al., and Wallace to incorporate the method of suggesting related products in order to increase the number of purchases made by customers, as well as incremental revenue gains.

Art Unit: 3627

4. Claims 44-45, 47 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination system of Kenny, Schena et al., and Wallace in further view of Suzuki et al.

The combination system of Kenny, Schena et al., and Wallace, as applied above, shows all of the limitations of the claims except for specifying automatic reorder reminders via e-mail.

Suzuki et al. teaches a goods sales management system, which includes automatic reorder reminders via e-mail in order to increase sales. (See column 1, lines 6-15 and claims 14-15)

Based on the teaching of Suzuki et al., it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the combination system of Kenny, Schena et al., and Wallace to incorporate automatic reorder reminders via e-mail in order to increase sales.

Response to Arguments

Applicant's arguments with respect to all claims have been considered but are moot in view of the new ground(s) of rejection.

One note to applicant's assertion that www.drugstore.com cannot be relied upon as prior art. The examiner does not concur. The publication date was provided by www.archive.org and was provided to applicant. The reference may be relied on.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cuff whose telephone number is (703) 308-0610. The examiner can normally be reached on 8:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Michael Cuff 9/27/04
Michael Cuff
September 27, 2004